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Legislative Bulletin.....March 12, 2010

Contents:

H.R. 3650—Harmful Algal Blooms and Hypoxia Research and Control Amendments Act

H.R. 3650 - Harmful Algal Blooms and Hypoxia Research and Control Amendments Act (*Baird, D-WA*)

Order of Business: The legislation is scheduled to be considered on Friday, March 12, 2010, under a structured rule. The rule ([H.Res.1168](#)) provides for one hour of debate equally divided and controlled by the majority and minority, waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI (earmarks), makes in order one amendment that self-executes under the rule, one other amendment, and provides one motion to recommit.

Summary: On Tuesday, March 9, 2010, a similar version of H.R. 3650 was defeated under suspension of the rules by a vote of [263-142](#). Please note the *conservative concerns* highlighted below.

H.R. 3650 makes amendments to the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451). This legislation establishes a National Harmful Algal Bloom and Hypoxia Program Task Force (led by the National Oceanic and Atmospheric Administration, NOAA) to detect, predict, mitigate and respond to marine and freshwater harmful algal bloom and hypoxia events. The Task Force will also oversee the development and implementation of the Regional Research and Action Plans and identify the appropriate regions and sub-regions to be addressed by each Plan.

This legislation maintains the [Ecology and Oceanography of Harmful Algal Blooms Program](#), the [Monitoring and Event Response for Harmful Algal Blooms Program](#), the [Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program](#), the [Coastal Hypoxia Research Program](#), and the [Prevention, Control, and Mitigation of Harmful Algal Blooms Program](#).

H.R. 3650 establishes an Event Response Program to coordinate, at the request of the states, marine and freshwater harmful algal blooms and hypoxia events response activities. It also establishes an infrastructure program to increase the availability of analytical facilities and technologies, operational forecasts, and reference and research materials. This infrastructure program will also seek to improve existing monitoring and observational programs, and enhance communication that is required in this act.

The Under Secretary shall submit a congressional report every two years detailing the program's activities, budget, progress made, and need to revise or terminate activities. This legislation also requires that a report on the progress of the 2008 Gulf Hypoxia Action Plan be submitted to Congress and the President, and requires that this report be updated and sent again every two years. The legislation also requires an integrated assessment of hypoxia in the coastal and estuarine waters of the Pacific Northwest that examines the status of current research, monitoring, prevention, response, and control efforts will also be required.

Additional Background: According the Committee, Harmful Algal Blooms (HABs) and hypoxia (severe depletion of oxygen) are two of the most scientifically complex and economically significant coastal management issues facing the nation. All U.S. coastal regions have reported major blooms and hypoxic events. While high levels of dissolved oxygen are necessary to support most forms of aquatic life, human activities have changed the landscapes, and increased nutrients entering costal waters detrimentally impacting animal life. The toxins found in harmful algal blooms can contaminate shellfish, which can cause severe illness or death in humans when eaten. Since 1998, Congress has authorized the study of this issue through various programs including the U.S. Coast Guard, the U.S Geological Survey, and the National Oceanic and Atmospheric Administration. More information on HAB'S can be found on the NOAA website by [clicking here](#).

Conservative Concern: Some conservatives have expressed concern that H.R. 3650 may conflict with the principle of federalism, as some of the provisions are a top-down mandate, and not a collaborative effort between the federal government and the local areas that have been impacted by the algae blooms. Some conservatives argue that what might be seen as appropriate management techniques in the Chesapeake Bay would not be appropriate in the deep Pacific Ocean. Additionally, some conservatives have expressed concern that the underlying *bill does not contain adequate safeguards against unfunded mandates* which would result if the state, tribal, and local governments were forced to undertake the activities identified in the plans that the federal government is responsible for developing and implementing.

Democrat Inconsistency Alerts!

Broken Campaign Pledge - Transparency: Congress is not spending an extra day in Washington to ensure the federal government adequately expands the number of programs to study the environmental, economic, and [human health impacts](#) of harmful algal blooms. The underlying reason Speaker Pelosi is keeping Members in town is to get a [backroom](#) deal and [work over](#) her members to get enough votes to pass their government takeover of Health Care.

Not only do House Democrats continue to push their agenda to seize 16 percent of the American economy despite [overwhelming opposition](#) by the American public, they are breaking their campaign pledge of [transparency](#). The C-SPAN cameras have not been seen since the White House "negotiations" that took place several weeks ago. In addition, the Speaker is so dead set on ramming something through, she [apparently doesn't even](#) care to know what is in the final bill.

Committee Action: H.R. 3650 was introduced on September 25, 2009 and referred to the House Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife, which discharged the legislation. H.R. 3650 was also referred to the House Science and Technology Subcommittee and Energy and Environment. The Subcommittee met on September 30, 2009 and agreed to a

manager's amendment by voice vote. A full committee markup was held on October 7, 2009, and approved the legislation by voice vote (as amended).

Cost to Taxpayers: According to CBO, H.R. 3650 authorizes \$205 million for the 2010 – 2014 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. H.R. 3650 establishes an Event Response Program and an Infrastructure Program.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to Committee Report 111-396, H.R. 3650 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in House Rule XXI, clause 9.

Constitutional Authority: House Report 111-396 cites Article I, section 8 of the Constitution of the United States for Constitutional Authority.

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